

3

Attorney Docket No. Ref. 20678**Declaration and Power of Attorney for Patent Application**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**A NUCLEIC ACID WHICH IS UPREGULATED IN HUMAN TUMOR CELLS,
A PROTEIN ENCODED THEREBY AND A PROCESS FOR TUMOR DIAGNOSIS**

the specification of which

(check one)

☐ is attached hereto.

☒ was filed on May 24, 2001 as

Application Serial No. 09/864,954

and was amended on _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)**Priority Claimed**

<u>00110953.7</u> (Number)	<u>Europe</u> (Country)	<u>26/05/2000</u> (Day/Month/Year Filed)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<u>00115369.1</u> (Number)	<u>Europe</u> (Country)	<u>15/07/2000</u> (Day/Month/Year Filed)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

✓ _____
(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

☒ Practitioners at Customer Number **00151**



00151

PATENT TRADEMARK OFFICE

✎ Direct all correspondence to:

☒ Customer Number **00151** or Bar Code Label



00151

PATENT TRADEMARK OFFICE

Direct Telephone Calls to: (name and telephone number)

Robert A. Silverman (973) 235-2863

Sepp Kaul

Full name of sole or first inventor

Sepp Kaul
Inventor's signature

10 / 09 / 01

Date

Heidelberger Straße 24, D-69168 Wiesloch, Germany

Residence

German

Citizenship

Heidelberger Straße 24, D-69168 Wiesloch, Germany

Post Office Address

(Supply similar information and signature for second and subsequent joint inventors.)

Josef Preiherr (deceased) by Erika Karolina Preiherr; Josef Preiherr; and Ingrid Preiherr (Heirs)

Full name of second joint inventor, if any

Second Inventor's signature

Date

Formerly: Wessobrunner Straße 4, D-82362 Weilheim, Germany

Residence

German

☒ Citizenship

Wessobrunner Straße 4, D-82362 Weilheim, Germany

Post Office Address

Erika Karolina Preiherr (First Heir)

Full name of First Heir

E. Preiherr

X

24/10/01

First Heir's signature

Date

Wessobrunner Straße 4, D-82362 Weilheim, Germany

Residence

German

☒ Citizenship

Wessobrunner Straße 4, D-82362 Weilheim, Germany

Post Office Address

Josef Preiherr (Second Heir)

Full name of Second Heir

E. Preiherr

Josef Preiherr

X

Ingrid Preiherr

27/11/01

Second Heir's signature

Date

Am Anger 4, 82392 Habach, Germany

Residence

German

☒ Citizenship

Am Anger 4, 82392 Habach, Germany

Post Office Address

Ingrid Preiherr (Third Heir)

Full name of Third Heir

E. Preiherr
Third Heir's signature

Ingrid Preiherr

Date

27/11/01

Am Anger 4, 82392 Habach, Germany

Residence

German

Citizenship

Am Anger 4, 82392 Habach, Germany

Post Office Address

Ulrich Weidle

Full name of third joint inventor, if any

Ulrich Weidle
Third Inventor's signature

Date

04/09/01

Landwehrstraße 56, D-80336 Muenchen, Germany

Residence

German

Citizenship

Landwehrstraße 56, D-80336 Muenchen, Germany

Post Office Address

Title 37, Code of Federal Regulations, §1.56, duty to disclose information material to patentability (in part) provides, in part, that each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned.

Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie of unpatentability of a claim: or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

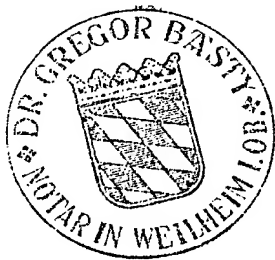
To whom it may concern

DECLARATION

I, the undersigned notary public, herewith declare supplementary to the enclosed certificate of June 18th, 2001 - concerning the inheritance of Josef Leonhard Preiherr, deceased on March 29th, 2001, that in the above mentioned inheritance:

1. no executor of the last wishes was appointed
2. no official administration of the estate was ordered
3. no other official person or person under official control was appointed in order that this person should administrate or dispose of the estate
4. it is not required under the German law to appoint such or any other person as a legal representative of the estate
5. the heirs mentioned in the annexed letter of administration had in accordance with the German laws
 - the authority to represent the deceased inventor Josef Leonhard Preiherr
 - to administrate and to dispose of the estate or parts of it
 - the authority to execute the U.S. Patent Application Serial No. 09/864,954 such as other Applications of the deceased inventor
6. the undersigned notary public ist one of the competent authorities of the Federal Republic of Germany to make such a declaration.

Penzberg, November 27th 2001



Dr. Gregor Basty,
Notary Public

A handwritten signature in black ink, appearing to be "Dr. Basty", written over the printed name.

TRANSLATION

MAGISTRATE COURT OF WEILHEIM i.OB

- Court for inheritance matters -

No°: VI 0154/01

Weilheim i.OB, this 18th of June, 2001

Certificate of Heritage

Mr. Josef Leonhard **Preiherr**,

born on the 5th of April, 1966,
died on the 29th of March, 2001,
last domiciled at Wessobrunner Street 4, 82362 Weilheim i.OB (Germany)

has been inherited by:

1. Erika Karolina Preiherr, name at birth Huber,
born on 23th of June, 1966,
of Wessobrunner Street 4, 82362 Weilheim i.OB (Germany),

for $\frac{3}{4}$ - three quarter -

2. Josef Preiherr,
born on 31th August, 1940, of Am Anger 4, 82392 Habach (Germany)

for $\frac{1}{8}$ - one eighth -

3. Ingrid Preiherr, name at birth Luidl,
born on 5th May, 1940, of Am Anger 4, 82392 Habach (Germany)

for $\frac{1}{8}$ - one eighth -

Dietrich
Judicial officer



AMTSGERICHT WEILHEIM i.OB

- N a c h l a ß g e r i c h t -

Geschäftszeichen: VI 0154/01

Weilheim i.OB, 18.06.2001

E r b s c h e i n

Josef Leonhard Freiherr,

geboren am 05.04.1966

gestorben am 29.03.2001

zuletzt wohnhaft Wessobrunner Str. 4, 82362 Weilheim i.OB

ist beerbt worden von:

1. Erika Karolina Freiherr, geb. Huber,
geb. 23.03.1966, Wessobrunner Str. 4, 82362 Weilheim i.OB
zu 3/4 - drei Vierteln -
2. Josef Freiherr,
geb. 31.08.1940, Am Anger 4, 82392 Habach
zu 1/8 - einem Achtel -
3. Ingrid Freiherr, geb. Luidl,
geb. 05.05.1940, Am Anger 4, 82392 Habach
zu 1/8 - einem Achtel -

Dietrich
Rechtspfleger

URNr. P 17551 2001

I hereby certify that the signatures appearing on the foregoing instrument are the true signatures, subscribed in my presence of

1. Mr. Josef Preiherr, date of birth 31th of August, 1940,
and his wife, Mrs. Ingrid Preiherr, name at birth Luidl, date of birth 5th of May, 1940,
both of 82392 Habach, Am Anger 4, Germany,
who have proved their identity with identity card of the Federal Republic of Germany, Nr. 8394036258 and Nr. and,
2. their daughter in law and surviving spouse of Mr. Josef Leonhard Preiherr,
Mrs. Erika Karolina Preiherr, name at birth Huber, date of birth 23th of March, 1966,
of 82362 Weilheim i.OB, Wessobrunner Street 4, Germany,
not married,
who has proved her identity with identity card of the Federal Republic of Germany, Nr. 8406177401.

Penzberg, the November 27th, 2001.



Dr. Gregor Basty,
Notary Public

A handwritten signature in black ink, appearing to read "Dr. Gregor Basty", written over the printed name and title.